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EXAMINER

KENDALL, CHUCK O

ART UNIT PAPER NUMBER

2192

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/899,959

Applicant(s)

MUHLESTEIN ET AL.

Examiner

Chuck Kendall

Art Unit

2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Detailed Action***

1. This action is in response to the application filed 03/28/05.
2. Claims 1 – 31 were previously presented, claims 32 – 35 have been added and claims 1 – 35 are pending.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1 – 31, 32 and 35 are rejected under 35 U.S.C. 102(e) as being anticipated by Morshed et al. USPN 6,721,941.

Regarding claim 1, Morshed anticipates a method for exposing instrumentation data available within a managed code environment to an instrumentation data source executing outside said managed code environment, comprising:

receiving an indication that said instrumentation data should be exposed to said instrumentation data source (16: 40 – 47);

in response to receiving said indication, loading a decoupled provider for facilitating communication between said managed code environment and said instrumentation data source (16: 40 – 47, also see 34:5 – 20 and 42:37 – 43 );

determining whether schema describing said instrumentation data has been previously registered with said instrumentation data source (73:15 – 25);

in response to determining that said schema has not been previously registered with said instrumentation data source, registering said schema with said instrumentation data source through said decoupled provider (54: 1 – 15, see list of process identifiers, collectors and registering process also 37:52 – 57 and 73: 42 - 47).

Regarding claim 3, the method of claim 1, further comprising:

registering an application program associated with said instrumentation data with said instrumentation data source as a provider of instances of said instrumentation data (21:15 – 25).

Regarding claim 4, the method of claim 3, further comprising: notifying said decoupled provider that said instrumentation data is available (19: 9 – 15).

Regarding claim 5, the method of claim 4, wherein said instrumentation data comprises an object and wherein said schema describes the properties and methods

Art Unit: 2192

exposed by said object (73:18 – 25, see components as gathered and see database schema).

Regarding claim 6, the method of claim 5, wherein said indication that said instrumentation data should be exposed to said instrumentation data source comprises an attribute (16: 35– 40, for attribute see label).

Regarding claim 7, the method of claim 5, wherein said indication that said instrumentation data should be exposed to said instrumentation data source comprises a call to an application programming interface (54:23 – 27).

Regarding claim 8, a computer-readable medium comprising instructions which, when executed by a computer, cause the computer to perform the method recited in any one of claims 1-7 (for computer readable medium see, 6: 18 – 23, for local storage, regarding performing methods of any one of claims 1 – 7, see rationale above as previously discussed).

Regarding claim 9, a computer-controlled apparatus capable of performing the method recited in any one of claims 1-7, (for computer controlled apparatus see, 6: 10 – 15, for computer system and regarding performing methods of any one of claims 1 – 7, see rationale above as previously discussed).

Regarding claim 10, a method for exposing instrumentation data available within a managed code environment to an instrumentation data source executing outside said managed code environment, comprising:

receiving an indication that said instrumentation data should be exposed to said instrumentation data source (54:23 – 27);

in response to receiving said indication, loading a decoupled provider for facilitating communication between said managed code environment and said instrumentation data source (16: 40 – 47);

determining whether schema describing said instrumentation data has been previously registered with said instrumentation data source (73:15 – 25;

in response to determining that schema has not been previously registered with said instrumentation data source, registering said schema with said instrumentation data source through said decoupled provider (54: 1 – 15, see list of process identifiers, collectors and registering process);

receiving a request for said instrumentation data from said instrumentation data source at said decoupled proxy (57:52 – 62, also see 37:50 – 62 ); and

in response to said request, converting said instrumentation data from a format compatible with said managed code environment to a format compatible with said instrumentation data source, and transmitting said converted instrumentation data to said instrumentation data source (8:53 – 60).

Regarding claim 11, the method of claim 10, wherein said instrumentation data comprises an object and wherein said schema describes the properties and methods exposed by said object (73:18 – 25, see components as gathered and see database schema).

Regarding claim 12, the method of claim 11, wherein said request for said instrumentation data comprises a request for instances of said object (21: 43 – 60).

Regarding claim 13, the method of claim 12, wherein said request for said instrumentation data is received at said decoupled provider, and further comprising: querying one or more providers for instances satisfying said request (21: 43 – 60, for request see call).

Regarding claim 14, the method of claim 13, wherein said one or more providers are queried by said decoupled provider in a round-robin fashion to identify instances satisfying said request (35: 45 – 55, also see 35:10 – 25 ).

Regarding claim 15, the method of claim 14, wherein said indication that said instrumentation data should be exposed to said instrumentation data source comprises an attribute (16: 35– 40, for attribute see label).

Art Unit: 2192

Regarding claim 16, the method of claim 14, wherein said indication that said instrumentation data should be exposed to said instrumentation data source comprises a call to an application programming interface (54:23 – 27).

Regarding claim 17, a computer-readable medium comprising instructions which, when executed by a computer, cause the computer to perform the method recited in any one of claims 10 -16 (for computer readable medium see, 6: 18 – 23, for local storage, regarding performing methods of any one of claims 10 – 16, see rationale above as previously discussed).

Regarding claim 18, a computer-controlled apparatus capable of performing the method recited in any one of claims 10 – 16 (for computer controlled apparatus see, 6: 18 – 23, for local storage, regarding performing methods of any one of claims 10 – 16, see rationale above as previously discussed).

Regarding claim 19, which recites similarly to claim 10 as previously discussed see rationale above.

Regarding claim 20, which recites similarly to claim 14 as previously discussed see rationale above.

Regarding claim 21, the method of claim 19, further comprising:



determining whether said request comprises a request to write a property on an instance of said instrumentation data (17: 1 – 10, see memory write);

in response to determining that said request comprises a request to write a property, identifying said instance of said instrumentation data and writing said property on said instance (17: 5 – 15, see memory write and program variable); and

providing a confirmation from said decoupled provider to said instrumentation data source that said property was written (17: 7 – 9, also see 53:45 – 54).

Regarding claim 23, a computer-readable medium comprising instructions, which when executed by a computer, cause the computer to perform the method recited in any one of claims 19 – 22 (for computer readable medium see, 6: 18 – 23, for local storage, regarding performing methods of any one of claims 19 – 22, see rationale above as previously discussed).

Regarding claim 24, a computer-controlled apparatus capable of performing the method recited in any one of claims 19 – 22 (for computer controlled apparatus see, 6: 18 – 23, for local storage, regarding performing methods of any one of claims 19 – 22, see rationale above as previously discussed).

Regarding claim 25, which recites similarly to claim 10 as previously discussed see rationale above.

Art Unit: 2192

Regarding claim 26, which recites similarly to claim 16 as previously discussed see rationale above.

Regarding claim 27, the method of claim 26, wherein said instrumentation data comprises an attribute indicating that said instrumentation data may be exposed to said instrumentation data source as an event(16: 40 – 47).

Regarding claim 28, which recites similarly to claim 2 as previously discussed see rationale above.

Regarding claim 29, which recites similarly to claim 13 as previously discussed see rationale above.

Regarding claim 30, a computer-readable medium comprising instructions which, when executed by a computer, cause the computer to perform the method recited in any one of claims 25 – 29 (for computer readable medium see, 6: 18 – 23, for local storage, regarding performing methods of any one of claims 25 – 29, see rationale above as previously discussed).

Regarding claim 31, a computer-controlled apparatus capable of performing the method recited in any one of claims 25 – 29 (for computer controlled apparatus see, 6:

Art Unit: 2192

18 – 23, for local storage, regarding performing methods of any one of claims 25 – 29, see rationale above as previously discussed).

Regarding claim 32, which recites similarly to claim 1 as previously discussed see rationale above.

Regarding claim 35, wherein the managed code environment is a JAVA virtual machine (20:35 – 40).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morshed et al. USPN 6,721,941 as applied in claim 32 in view of Zygmunt et al. US 2002/0019971 A1.

Regarding claim 33, Morshed discloses all the claimed limitation as applied in claim 32 above. Morshed doesn't explicitly disclose Microsoft's .NET Framework. However, Zygmunt in an analogous art does disclose using the Microsoft .NET Framework for " problems that software developers face in developing OO software systems for client-server environments such as the World Wide Web" [0005].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Morshed and Zygmunt because, it would have enable more efficient OO programming over the internet.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Morshed et al. USPN 6,721,941 in view of Zygmunt et al. US 2002/0019971 A1 as applied in claim 33, and further in view of Kumbalimutt et al. USPN 6,871,346 B1.

Regarding claim 34, Morshed as modified with Zygmunt discloses all the claimed limitations as applied in claim 33 above. The combination of Morshed and Zygmunt doesn't explicitly disclose Windows Management Instrumentation (WMI). However, Kumbalimutt in an analogous art does disclose a Framework in Windows environment which is compliant with the WMI requirements (6:32 – 35). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Morshed and Zygmunt with Kumbalimutt because, it would have enable the system to be compliant in a Microsoft environment.

#### ***Allowable Subject Matter***

5. Claim 2 & 22, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following limitations are not taught alone or disclose in combination in the prior art:

“...in response to determining that said schema has previously been registered with said instrumentation data source, determining whether said previously registered schema is correct...

in response to determining that said previously registered schema is incorrect, overwriting said previously registered schema with said schema describing said instrumentation data”.

“...determining whether said request comprises a request to execute a method on an instance of said instrumentation data and in response to determining that said request comprises a request to execute a method, identifying said instance of said instrumentation data and executing said method on said instance and providing a confirmation from said decoupled provider to said instrumentation data source that said method was executed”.

### ***Response to Arguments***

6. Applicant's arguments filed 03/28/05 with reference to 1 – 32 have been fully considered but they are not persuasive. And regarding claims 33 – 35, arguments have been considered but are moot in view of the new ground(s) of rejection.

Argument (1), on page 12, 2<sup>nd</sup> paragraph of his response Applicant argues that Morshed does not disclose "accessing information regarding the managed code application by an external application concurrently executing outside of the managed code environment".

Response (1), While Applicants plain language of claims only calls for "a method for exposing instrumentation data available within a managed code environment to an instrumentation data source executing outside said managed code environment", Applicant appears to be arguing for a limitations not present in claims.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "accessing information regarding the managed code application by an external application concurrently executing outside of the managed code environment") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Hence Applicant's argument is moot.

Argument (2), on page 13, of Applicant's response (3/28/05), Applicant argues that Morshed fails to disclose " loading a decouple provider that facilitates

Art Unit: 2192

communication between a managed code application and an instrumentation data source”.

Response (2), Examiner believes that Morshed does in fact teach this limitation. In 34: 5 – 15, shows a communication between applications using a communication means 1024, which is used to coordinate different activities of the client software 1020 and also server software 1022, in 35:13 – 20, Morshed further describes software 1020 to encompass a client process, a monitor process and a collector process which also communicates with other collectors. Morshed also further discloses that the instrumented data is executed and communicated with the monitor DLL (42:37 – 43). Examiner believes this is equivalent to Applicant's claimed limitations.

Argument (3), Applicant on page 14 of response (03/28/05) discloses that Morshed doesn't teach, “ whether a schema has been previously registered with an instrumentation source”.

Response (3), in 37:52 – 57, Morshed discloses that, “ The first time the server receives this information from a new client, the server checks to see if it already has registered with the client and collectors of other systems in the chain”. And in 73:25 – 30, Morshed further describes included in the database schema is information which also includes software component information such as information communicated

Art Unit: 2192

during the monitoring process 73:42 – 47. And as discussed above in response (2), the instrumentation information is associated with the monitor process.

Regarding arguments in claim 5, please see response (3), which address instrumentation information and schema data.

Regarding arguments in claims 8 and 9, Applicant draws claims to reciting a method as in any one of claims 1-7, therefore any claims addressed prior to claims 8 and 9 would also address claims 8 and 9.

Argument (4), on page 17 of Applicant's response, Applicant argues that Morshed doesn't teach "receiving a request for said instrumentation data from said instrumentation data source at said decoupled proxy".

Response (4), In Morshed 37:50 – 62, Morshed shows a monitor process and a collector used send data and also request data by including an explicit call in an instrumentation routine, also Morshed discloses that the collector acts as a proxy 38:7, Examiner interprets this to be equivalent function and hence shows Applicant's limitations.

Argument (5), regarding Claim 14, Applicant argues on page 19 of Applicant's response that Morshed doesn't show " one or more providers are queried by said



Art Unit: 2192

decoupled provider in a round-robin fashion to identify instances satisfying said request”.

Response (5), Morshed in 35:10 – 25, teaches a collector process which communicates with (query) other collectors on other client and server processes, Examiner interprets this to be equivalent to Applicants claim limitation.

With reference to argument in claim 21, regarding the limitation of providing a confirmation for provider to instrumentation source that property was written, see Morshed 53:45 – 54, which shows after completion of gathering of execution information associated with the function call, the function record may be written to a server data file. Examiner believes this teaches Applicants claim limitation.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

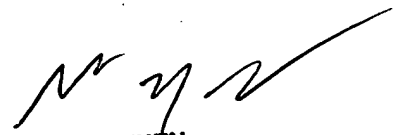
Art Unit: 2192

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 571-2723698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-2723695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**WEI Y. ZHEN**  
**PRIMARY EXAMINER**

CK